

The Michaelman **Students'** **Rights** **Manual**

**FREEDOM OF
THE PRESS**

**IS A COLLEGE
A LANDLORD?**

**RIGHT TO
PRIVACY**

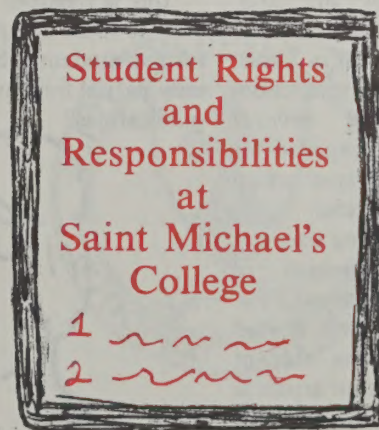
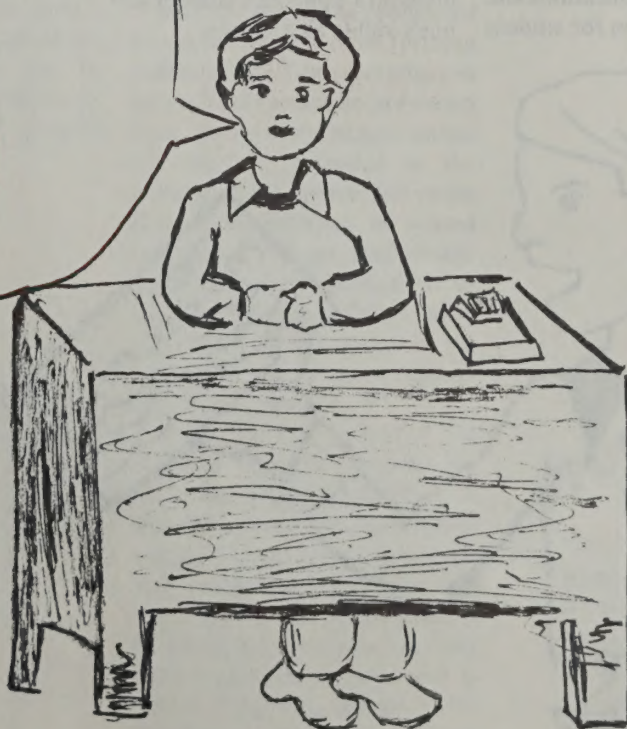
**SEIZURE, SEARCH
OR
INTERROGATION**

**RIGHT TO
DEMONSTRATE**

**"DUE PROCESS
GUARANTEED
TO ALL STUDENTS"**

The possession
and distribution
of this handbook
is protected by
the First Amendment
of the United States
Constitution

RIGHTS ON!



What are your RIGHTS

The Michaelman is publishing this Student Rights Manual in order to help you whenever a problem arises where you aren't certain of what your rights are or if they are being violated. There may be an occasion when you are guilty according to school policy, but not civil law.

The law should not end as a student turns off Route 15 and onto St. Michael's campus. A student should have the same civil rights as any non-student. In reference to an administrator's policy of searching rooms without warrants, a student is clearly being denied his civil rights, yet this is only one of innumerable transgressions committed by nearly all colleges and universities.

the student's only recourse is to try and build "student power." "Student power" must be directed toward making schools abide by the same laws which govern all other institutions, organizations and corporations across the nation.

The Burlington Legal Aid Society or the American Civil Liberties Union of Vermont in Montpelier will give you free legal advice about what your rights are under the law. If the law is clearly against you, The Michaelman urges you to use all legal methods, as described in this manual, to change the law.

What can you do to make certain that you aren't being denied your rights?

1. Review each rule in the St.

Michael's Student Guide and decide which ones violate your rights. Present a revision to the Student Association.

2. Organize as many students as possible to support your cause.

3. Get a lawyer to telephone a college official. A college doesn't want to be sued in court, having to spend time and money presenting a case. Officials will be much more likely to "come around" if they know you've contacted a lawyer and mean business.

4. The Boycotting of classes should be considered a last resort but is frequently the most effective. Without students a college cannot operate, so the power is really in your hands — you must only learn to use it to your own advantage.

the 1st amendment tells us...

by R. Kipp Miller

In the United States, Freedom of Speech is guaranteed by the presence of the First Amendment to the Constitution. The right for one to express his or her own opinion concerning a particular subject, whether it be about war, racial problems, corruption in government, abortion, or school administrators is extended to Americans of all ages, not only those who can vote. Students on college campuses, as well as students in secondary schools, have certain rights pertaining to the methods they may legally use to express their beliefs; through demonstrations, school newspapers, and other such means. This article will explore some of the means that students have as vehicles for speaking their own minds, whether or not such means are legal under the Constitution, and just how far college officials may legally go to halt students' expression of their ideas and feelings.

Students do not lose their right to express their opinions once they enter school. This privilege may be revoked only if the expression of such opinions greatly impedes studies and other endeavors at the school. Students have the right to express their views by means of organizations, political or otherwise, newspapers, pamphlets, and even buttons.

A school's means of communication, such as mimeograph machines and loudspeakers, can be utilized by students to express their opinions unless such use of the communications facilities legitimately interferes with routine school business. Bulletin boards must also be available for students' use.

A school cannot prevent students from handing out literature on school property, whether this printed material be in the form of an underground newspaper, sheets, or leaflets. The exception to this rule is the usual one that states that if such actions cause more than minor disruption of school activities, then it can be legally banned. Students who wish to express their views by distributing printed material can do so in such places that are not crucial to the function of the school. Classrooms and crowded halls are obvious places where the distribution of such materials would not be tolerated. School officials have the right to say where printed student materials may be distributed unless they are too confining in place or time for such distributions. Controversial literature cannot be banned from appearing on school grounds and school officials cannot prohibit the views of two opposing groups from being expressed. The distribution of so-called "propaganda" on campus cannot be halted by officials.

On campus, students can also sell underground newspapers and solicit money for various causes, whether they be political or otherwise. As long as substantial disruptions of school activities do not occur such monetary transactions are legal.

The administration of any school or college cannot require students to show them articles before said articles are published and distributed. Only when a school has a "standing rule" that material for student publication must first be accepted by the administration can they legally look at such literature. There are

School cannot prevent students
literature on school property.

Freedom of the press

Student publications are guaranteed the right to freedom of the press in the U.S. Constitution. In a case decided in a federal district court in Texas, the judges demanded that school officials reinstate several students who were expelled for publishing a newspaper which criticized school policies.

However, this ruling does not represent the consensus of federal court decisions. The courts have permitted limited supervision over the student press, specifically if an article is to be published which may instigate student riots. The law stipulates that:

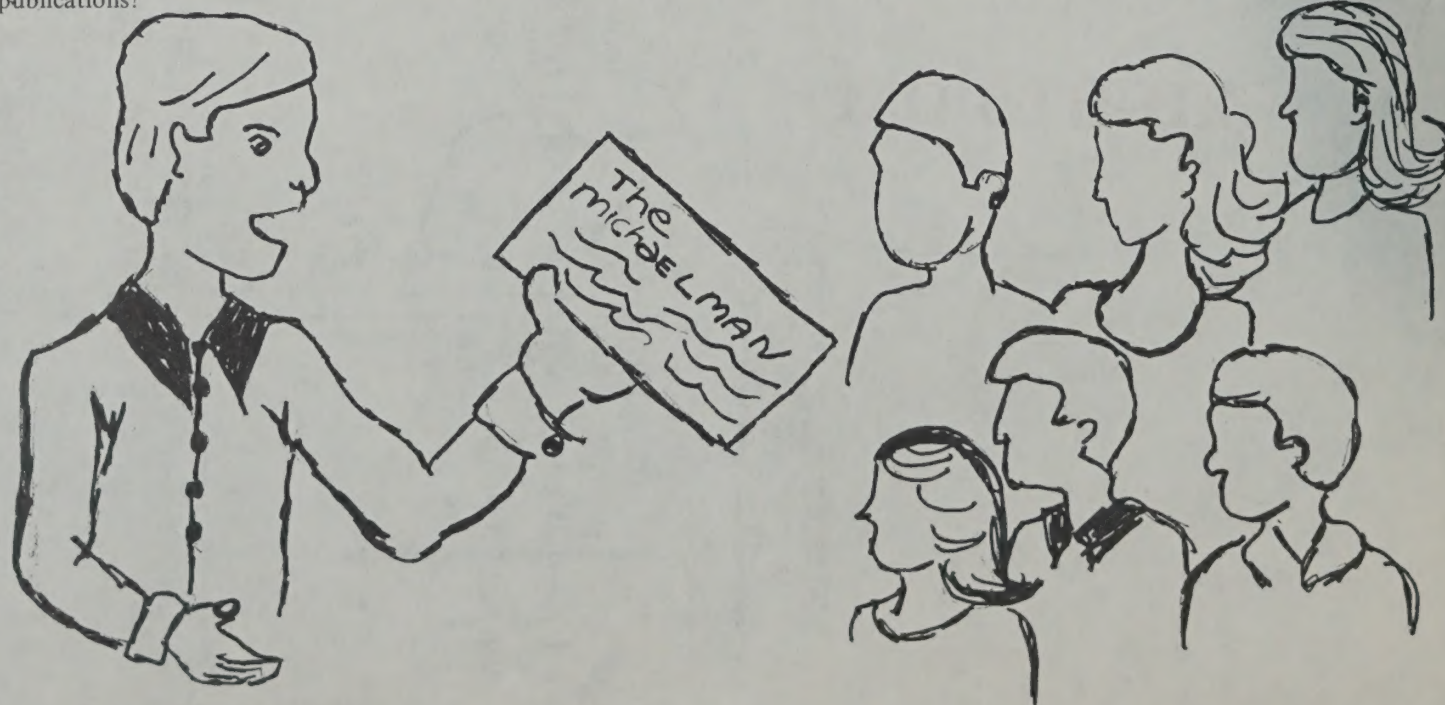
"school officials do not have the right to complete and arbitrarily censor student publications."

Who decides what constitutes "instigation to riot" is a matter of contention. Theoretically, as long as the newspaper prints the truth, no officials have the right to interfere with publication.

All non-student publications

are free to print the truth without fear of censorship from officials — this is freedom of the press. Why is there complete freedom for non-student publications and only partial freedom for student publications?

Therefore, it is up to the student to use the press in a manner which will open eyes to the incongruity between an individual's rights as a student and one's rights as a citizen.



Student publications guaranteed right to Freedom of Press.

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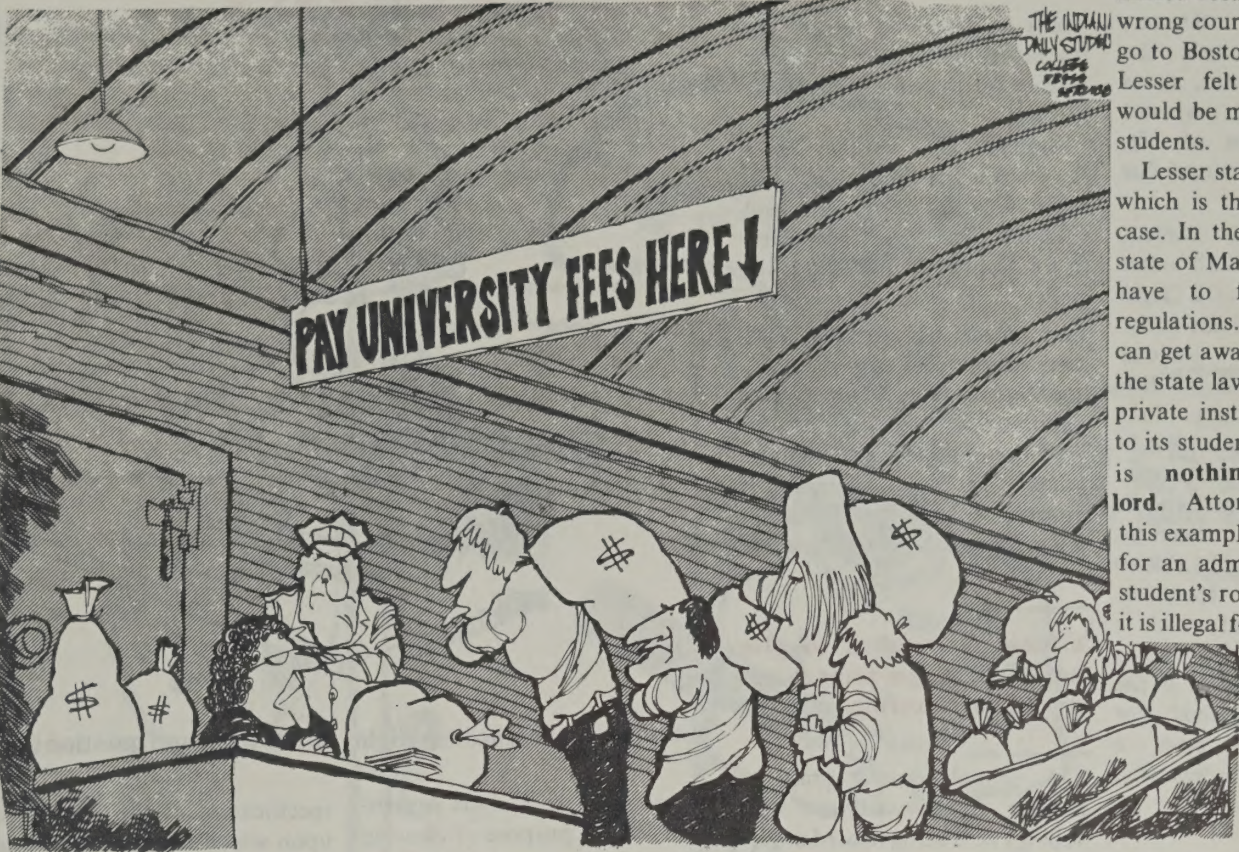
Students bring U MASS To Court

Are the administrators of a school the landlords of the students who live on their property; i.e., on campus?

According to **Words and Phrases, a Listing of All Judicial Constructions and Definitions of Words and Phrases by The State and Federal Courts**, a "landlord" is one entitled to rent for use and occupancy of any housing accommodation. Under rent and eviction regulations and the Emergency Housing Rent Control law, a "landlord" means the person who is in possession and control. It is the "landlord's" property which is occupied. Hence, when a petitioner says he is a landlord, he, in effect, says he is the person whose lands are occupied.

Words and Phrases also notes that the relation of "landlord" and "tenant" exists when one person occupies the premises of another in subordination to that other's title and with his consent. The terms "landlord" and "tenant" mean lessor and lessee of any property and are not necessarily restricted to lands and tenements as under ancient common law. Thus, it seems logical that a University assumes the role of landlord to all students residing on campus. This was the contention of several UMass students in Spring 1975.

Last Spring, six University of Massachusetts students felt that the University was "ripping them off" by failing to pay the interest that had accumulated on security deposits required for dormitory living. The students asserted that they were entitled to double the 5 percent interest they should have been earning on the security deposits since 1972.



A "landlord" is one who rents for use or occupancy any housing accommodations.

According to the students' attorney, Thomas Lesser, the university failed to respond to the students' complaint within the 30-day period required by law. Legal notice was sent to Joseph Healy, chairman of the UMass board of trustees that the case would be brought to court.

According to information taken from a report filed by the Center for Educational Research, the students accused UMass president, Robert Wood, of using the interest money accrued from the deposits to renovate his office. The report by the Center claims that Wood

spent more than \$250,000 from security deposits to refurbish his office. Wood, according to the same source, over-expended the budget for his office by \$95,000.

The class action suit against the institution went to Northampton Superior Court.

On October 17th, **The Michaelman** contacted the Northampton Superior Court for more information on the case. We were referred to Mr. Peter Glucker, head of the University of Massachusetts News Bureau, who stated that the case was dismissed by the court.

Glucker told **The Michaelman**, "the University's contention was that the institution was not a landlord under concept of Massachusetts State Law. Landlords are required to pay 5 percent on security deposits" . . . but UMass is not required to pay that percentage.

Why is the university not considered the landlord? **The Michaelman** spoke to the students' attorney on Monday, Oct. 20th.

In a telephone conversation, Attorney Thomas Lesser said that the UMass case was dis-

missed because it was filed in the wrong court. If the case were to go to Boston, or a higher court, Lesser felt that the outcome would be more favorable to the students.

Lesser stated an inconsistency which is the focal point of his case. In the case of UMass the state of Massachusetts does not have to follow its housing regulations. The state institution can get away with not following the state law, said Lesser. "But a private institution must answer to its students. A private school is **nothing but a landlord**. Attorney Lesser stated this example, "It is highly illegal for an administrator to enter a student's room in a dorm, just as it is illegal for a landlord to enter

an apartment."

The point to be emphasized is that colleges and universities are carrying out the role of a landlord and yet all denying the "tenants" their civil rights.

1. They are not paying the interest to students which they ordinarily would have to pay under civil law, and; 2. They are literally breaking and entering a student's domicile without proper court sanction.

A student is a tenant and he is being denied his rights. It may take several more years of court cases before a student is no longer discriminated against. However, the legal community, as demonstrated through the thoughts of Attorney Thomas Lesser, is optimistic.

Continued from page 2

also restrictions to this rule that say administration officials must have a definite time period in which students can show them their material so that the student is not inconvenienced.

A student publication cannot be shut down because it advises students to disobey a school rule. A shut-down would only be valid if such material in the publication led to serious

disorders at the school. Likewise, a publication that criticizes school officials cannot be prohibited from printing such matter unless what is written is libelous — although, the author may be sued for monetary damages. As long as the truth is being printed in a publication, then no prosecution can be enacted against the publication. Just because a school controls

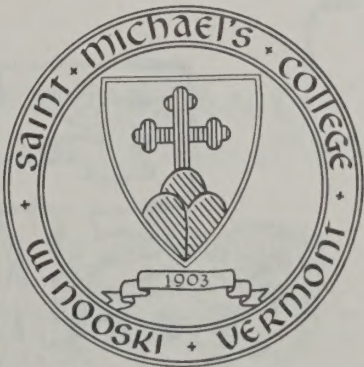
the purse strings of a student publication does not mean they have control over the contents of such a publication. If an institution makes mistakes then it cannot keep them from those affected by such mistakes.

Students can not be prohibited by school officials from forming political clubs. Speakers engaged by students cannot be prevented from giving their lecture unless the speaker's presence or the content of his speech will cause harmful disruptions of school routines or violate individuals' rights. The right of students to form clubs has long been recognized by the courts as an important part of one's right to express his views.

These are just a few of the rights of all students under the First Amendment regardless of whether the student is attending a high school or a university. Any violation of a student's rights under this amendment is an illegal act. Students have the same rights as others and a school may not suppress these freedoms which have been guaranteed under the Constitution.

—R. Kipp Miller

THE MICHAELMAN



STUDENT RIGHTS MANUAL

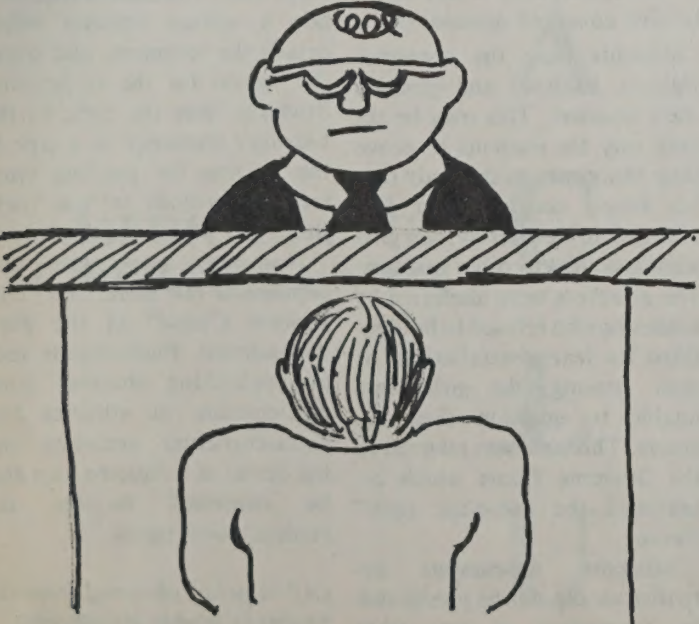
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"Due Process" is Right of Every Student

by Cindy von Beren

The United States Constitution, through the Fourteenth Amendment, states that the government may not "deprive any person of life, liberty or property without due process of law."

Deans, professors, coaches, security guards, and all other school employees have a "legal duty" to treat all students fairly. Before imposing serious punishment for an alleged misconduct, they must first determine that the student is in fact guilty of the accused crime.

It is often stated that "schools are not courtrooms;" therefore school officials should be able to enforce discipline. However, often the punishment which is dealt against a student has as serious consequences as if the offense had been criminal. For example, expulsion from a college deprives a student of a diploma, which can put his future in jeopardy.

Students are entitled to a lawyer to be present at all hearings which may severely affect their rights and valuable privileges.

A student is entitled to an impartial hearing officer for serious punishments. In Texas and New York, federal courts have granted hearings before the state's Commissioner of Education. The court also requires an impartial hearing on any suspensions lasting more than two days. Specifically, the hearing officer must not be an employee of the school or school system.

Witnesses are allowed and the right of students to produce a teacher to testify in that student's behalf is guaranteed in New York by the Chancellor of the New York City School System. He found it illegal for school of-

ficials to refuse to release the teacher from his duties or pay the teacher for the time spent at the hearing.

Students are entitled to a lawyer for hearings which may severely "affect their rights and valuable privileges," according to the Supreme Court. This includes expulsion, suspension, and transference. A New York case warranted a lawyer when a student was denied credit on an examination and denied the privilege of taking further exams when she was accused of cheating. School authorities are not required to provide lawyers for students.

College is required to give notice of charges prior to any disciplinary hearing.

A school should grant a hearing to any student who believes he is being treated unjustly. If a student is suspended due to medical or psychological reasons, he is entitled to a hearing. For short suspensions, hearings may consist of the student and his parents and the dean at an informal conference to discuss the reasons for the suspension.

In New York City, students are allowed to bring an advisor. The professor that has accused the student must attend the hearing and parents are allowed to question the accuser.

For longer suspensions formal hearings are required, including a lawyer and witnesses.

The period of suspension without a hearing varies; if the time period is long, it could be illegal. The court has determined that an immediate hearing is required if the accused student can show that the suspension will mean possible credit loss or missing important work. A hearing is desirable even after returning



Students have absolute right to confront and question their accusers.

to school from a short suspension for the purpose of clearing the student's record if declared innocent.

The denial to participate in extra-curricular activities, a fundamental part of the education process, can be as serious as a suspension and entitles the student to a hearing. For example, a New York court held that a hearing had to be granted to a student on an athletic team who was charged with drinking a glass of beer. This was in direct violation of the code for athletic teams' conduct.

A college is required to give the accused a list of violations committed. A notice of the charges, such as "violating school rules" or "serious misconduct" is inadequate, since it does not state what offense has been committed. In Washington, D.C., a federal court ruled that such a notice "state specific, clear, and full reasons for the proposed action, including the

specification of the alleged act upon which the disciplinary action is to be based and the reference to the regulation subsection under which the action is proposed." Students must be advised of the charges in advance of the hearing in order to enable them to prepare a defense and gather witnesses and evidence.

Hearings are generally awarded to those accused of a serious offense. School officials, by law, are required to grant students the "right to a hearing" for certain punishments.

4th Amendment prohibits "unreasonable searches of a person's private belongings."

According to the American Civil Liberties Union, if a student is faced with expulsion or suspension, he is entitled to ask for:

- a written list of charges
- a list of witnesses and their statements
- a prompt hearing before an impartial body
- representation by an attorney, relative, or friend
- an opportunity to hear direct testimony by witnesses
- a decision based on evidence presented
- an opportunity to appeal to the civil courts (if necessary).

Students have the absolute right to confront and question their accusers. This may be the only way for students to prove their innocence to the body that has falsely accused them. For example, in New Jersey, two girls were assaulted by other students. The attackers were identified by witnesses who refused to be identified for fear of retaliation. At their hearing, the girls were unable to question their accusers. This case was referred to the Supreme Court which established the "absolute right" clause.

Students' off-campus activities should not be punishable by suspension or any other

measure. For example, a New Hampshire court ruled that a girl could not be suspended for reporting to school drunk until she had solved her psychological problems at home. Although schools do have the authority to penalize students for school-related incidents, home-based problems are out of their jurisdiction. After finding that the material a New York student reported about his principal on the radio was listed on his school record, the student took the matter to court. The court ordered the material expunged from his record as it resulted from an off-campus incident.

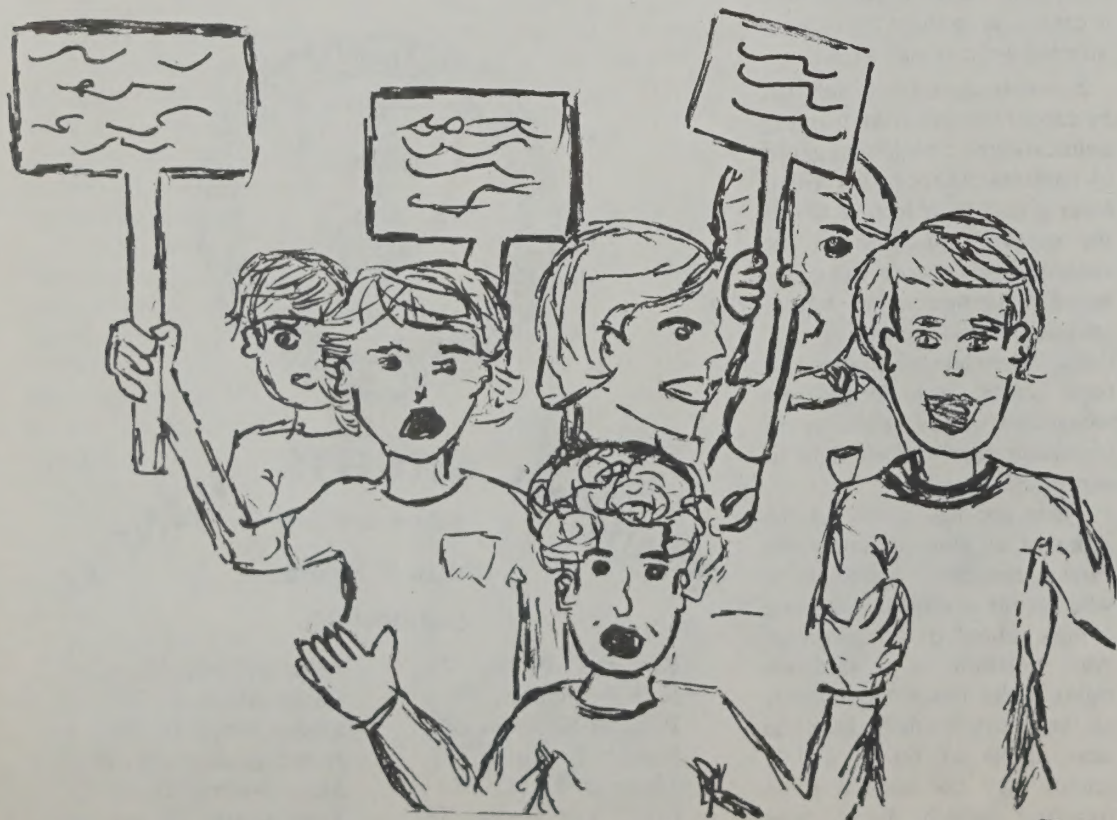
According to New Jersey courts, students may be suspended temporarily for off-campus activities if the school officials feel there is "reasonable cause to believe that a student . . . presents a danger to himself, to others, or to school property." A hearing must precede such action.

By New York and New Jersey legislation, through the Board of Education, suspension caused by a student's arrest is illegal.

Students are generally permitted to appeal a suspension decision to a civil court. In fact, this right is guaranteed by federal court decision. To appeal a suspension, the student must obtain a written decision which details the testimony and states the reason for the suspension. Students have the right to the hearing's transcript or a tape of the hearing for pending long-term suspensions. In New York, this is any period over five days.

Not only suspensions and expulsions fall under the "Due Process Clause" of the First Amendment. Punishments such as prohibiting students from participating in athletics and extra-curricular activities and the denial of a diploma, can also be contested through the student's civil rights.

(All material obtained from the Student's Rights Handbook)



Right to demonstrate on college grounds is upheld by court ruling.

"I Do Not Consent to A Search"

If you are Seized, Searched, Interrogated

Security systems have been introduced to many colleges in order to protect both the students and the school grounds. The Security Guards are hired by the institution itself and aren't legally affiliated with local police forces.

If a student is confronted and questioned by either a security guard or a policeman he has the constitutional right to remain silent. Anything that the student says can be used in a court of law as evidence against him. An administration's threats of expulsion from college for not cooperating with the police are not enforceable. A student can sue to be reinstated and will win the case. According to a ruling by the New York State Education Department (which has held up in court) students "are given over to the custody of the school authorities for one purpose only, and that is education in all its phases!" . . . the college has no right to make students available for police interrogation. If a student is detained by the police, you shouldn't answer any questions until you have spoken to a lawyer — even if school officials insist it is in your best interest — or if the police have said they will not permit you to leave until you have answered their questions. It is the job of the police to investigate crimes. If you are being questioned you may be considered a suspect and you can only hurt yourself by talking.

The Fourth Amendment of the Constitution prohibits "unreasonable searches and seizures" of a person's private belongings. A search is valid and what is found can only be used as

evidence in court if the questioning official has obtained a search warrant signed by a judge. The St. Michael's College Student Guide states that: "Although every effort will be made to respect the privacy of occupants, the college reserves the right to have the Dean of Students or his designee inspect any room at any time, preferably with at least one occupant present." This is illegal.

According to the American

Civil Liberties Union, colleges have no right to make you give permission for a search nor punish you for refusing to do so.

"A valid search warrant must bear your name and indicate exactly what is being searched for. The extent of the search is limited to the areas in which the items named in the warrant may be located. For example, the police cannot search for a missing bicycle in your wallet . . .

If the courts decide that you

have been a victim of an illegal search, then none of the evidence which is found on you or your property can be used against you in court.

College officials must prove that they have "reasonable cause" for a search. A student's best defense is to **never consent** to a search. In the event a policeman, security guard or school official does break into your room without a search warrant, the student has only one

course of action. He must say in a loud clear voice, so that witnesses can hear, "I do not consent to a search." By repeatedly asserting this, the student has a good chance that anything found in his possession cannot be used as evidence against him in court.

¹Formal Opinion of Counsel, No. 67, Ed. Dept. Rep. 766 (1952).



What Is the ACLU?

The American Civil Liberties Union is a national organization with headquarters in New York. It was founded in 1920 to combat violations of the Bill of Rights resulting from post war hysteria directed against political dissenters. Among the founders were Roger Baldwin, Jane Addams, Clarence Darrow, John Dewey, Morris Ernst, Felix Frankfurter, Arthur Garfield Hays, Helen Keller, Rabbi Judah Magnes, Monsignor John Ryan, and Norman Thomas.

AMERICAN CIVIL
LIBERTIES UNION

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It's the nation's only permanent nonpartisan organization devoted exclusively to the defense and extension of the Bill of Rights for everyone through the courts, the legislatures, and through the forum of public opinion.

Join with the over 170,000 Americans who express their concern in civil liberties with a membership in The American Civil Liberties Union.

You can help ACLU fight:

Against those federal, state, and local measures that threaten the civil liberties of all Americans;

To promote fair procedures in court trials, congressional, and administrative hearings; Against governmental and private pressure group censorship of movies, plays, books, newspapers, magazines, radio, and TV;

To eliminate second class citizenship for Negroes, Chicanos, American Indians, mental patients, migrant workers, and other minority groups.

AMERICAN CIVIL
LIBERTIES UNION

School Officials Can Not Act "In Loco/Parentis"

In recent years there have been a number of challenges initiated by college students as to how much authority administrators can exercise in controlling their schools. As a result of these challenges, courts have defined to a much greater degree the power of college officials to regulate students' lives. In the opinion of one federal court many of these practices used to "reflect the administration's moral and political judgments about students' lives but had little to do with education."

No rules can be enforced which do not directly pertain to the students' education.

The college cannot interfere with what a student chooses to do with his free time. Most college students are of legal age, and therefore accountable only to themselves. The administration has no right to meddle with your private affairs. They are not empowered to act "in loco parentis". In other words, parental authority is not delegated to any college official merely because a student chooses to live away from home. According to court decisions, college officials must recognize this limitation on their authority.

Although the disciplinary function of a college is unquestionable, this should be confined only to student actions which may have directly affected the college community. Students

that find themselves in legal difficulties off-campus have a right to personally handle the problem as they see fit. Although it might be advisable to call a college official, it is not mandatory. A student over the age of eighteen has the legal right to request that the college not be informed. The Michaelman interviewed officials from the Burlington and Winooski police departments to verify this supposition. Both departments prefer to call the Dean of Students and will do so, without always even informing the student. To prevent the Dean of Students from being notified of your predicament, a student must speak up and demand his rights as an adult.

Similarly, if the college does intervene on behalf of the student, any information obtained by the school can't be given out to your parents if you stipulate your right to have information withheld. This is a provision of the recent Buckley Amendment.

Parents cannot seek information about your academic or social standing on the grounds that they are paying your tuition. This argument simply does not carry any weight. School officials have only the power that has been expressly granted to them by the legislature. Thus, your right to privacy must be respected.

—Robert C. Nolan

OFF CAMPUS

Freedom For Students

College students who live off campus assume responsibilities and freedoms far beyond those associated with campus residence halls.

Students enjoy the same freedoms of speech, peaceful assembly, and petition as the other members of the civil community, and are also obligated to the conditions of membership in their academic community.

These rights and responsibilities are not antagonistic. The Administration of the college should guarantee that the practices or procedures of the institution do not conflict with the rights of citizenship assumed by off-campus students. Discrepancies such as these would serve to "inhibit the intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus."

On-campus students who break the law are frequently responsible to institutional authority, usually in lieu of civil authorities. As members of a public community, however, off-campus students are subject to the civil penalties incurred by violation of the law. These penalties should never be duplicated or added to by institutional action.

Students' off campus activities may not be punished by college officials.

School officials cannot punish students for off-campus activities. According to a recent ruling in a New Jersey court, a student may be suspended for

off-campus acts "only if those acts give school officials reasonable cause to believe that a student... presents a danger to himself, to others or to school property." In a similar case, *Sullivan v. Houston Independent School District*, the court ruled that "It makes little sense to extend the influence of school administration to off-campus activity under the theory that such activity might interfere with the function of education."

The role of the institution should be to avail students of the sources of legal counseling.

—P. Siragusa

Marriage or Pregnancy is not Grounds for Denial of Education

In the past, some colleges made it common practice to prohibit students who are married, pregnant or parents from attending classes or being involved in extracurricular activities. The prohibition was based on a moral judgment such that the student involved in such a relationship influences those around him or her in an immoral manner. With pornography readily available to any student today, that argument has been rendered invalid. Actually, the education of any parent or expectant mother is guaranteed by law.

The ruling of the case *McLeod v. Mississippi* in 1929 stated that a high school could not expel a student for getting married. In

The Constitution of the United States guarantees all individuals the right to express their opinions and feelings without fear of harassment or censorship. The courts must recognize these rights regardless of race, creed, color, age or sex and students are no exception to these laws. In the words of one federal court ruling, students have rights because they "are persons under our Constitution."

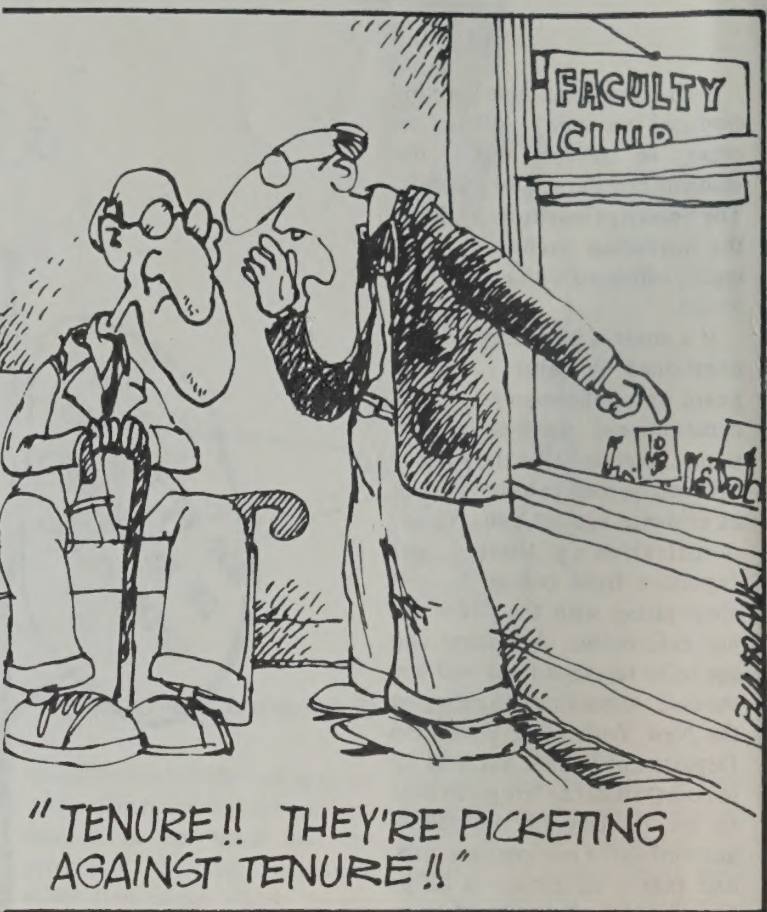
Implicit in the First Amendment's "peaceful assembly" provision is the right to hold peaceful and orderly demonstrations. On any college campus, students and supporters may march and picket in "public areas" as long as such demonstrations do not disrupt school activities. "Public areas" include streets, sidewalks, and the open campus and exclude the interior of college buildings.

Sit-ins or other forms of protest inside a building are held as being an interference to the proper functioning of the college community. Courts consider this action as infringing on the rights of others and the courts usually lean to the administration. In one case a Pennsylvania court stated that a sit-in was illegal not because it was indoors nor because it attracted an audience, but rather, it was "illegal" because "this particular demonstration interfered with school activities... the student demonstrators missed scheduled classes, and noise from the demonstration required some classes to be moved to different locations..."

However, in support of the opposite view, a South Carolina court held that "a school could not make a blanket rule banning all demonstrations on school property without regard to how orderly and peaceful they were." grievances against school

reference to pregnant women, married or not, being expelled from school, a policy adopted by N.Y.C. in 1968 allows the students the option of remaining in their regular schools throughout their entire pregnancy or attending a full school program at a special center. In New York City principals are provided with emergency instructions on what to do if a student goes into labor.

In the case of being expelled from college due to pregnancy, there is a sound legal argument that the woman is being discriminated against and arbitrarily deprived of her legal



A school cannot ban all demonstrations on school property.

policies can be peacefully expressed on campus via demonstrations. Most schools require advance notice of a demonstration unless the protest is, in fact, "spontaneous". The Saint Michael's College Student Guide states that "for reasons of good order and safety, the Dean of Students must be notified prior to a demonstration." It further states that "negotiations will not take place while any As a result of this ruling any member of the college community is under duress because of a demonstration."

As far as the right of the administration to control the appearance of guest speakers on campus and the type and

character of student organizations on campus, a precedent-setting case from Mississippi can be cited. The Mississippi Board of Higher Education passed a series of rules aimed at controlling guest speakers on college campuses. When the student body brought the case to court, the court threw out rules set by the Board. The court stated that "a speaker can be rejected only if it is found that he will advocate and incite a real danger of overthrow of government, damage of property, disruption of classes, intimidation of staff or students, or violent disorder."

—R.C. Nolan

right to an education. In *Alvin Independent School District, Texas v. Cooper*, the court ordered the admission of a young mother to high school on the grounds she was entitled, under state laws, to an education. In a 1972 case in Mississippi, the courts ordered officials to readmit two unmarried mothers to school unless the administration could show in a fair hearing that the young women were "so lacking in moral character that their presence in the school (would) taint the education of other students."

In two separate 1972 rulings, dealing with the married students participating in

extracurricular activities, the courts stated that rules excluding a married student from all school activities (except classes) infringed on her fundamental right to marry by severely limiting her right to an education. Since the marriages were legal, school officials could not bar them due to their married status. A Montana court ruled that school officials could not prohibit a married student from playing high school football for it deprived him of the chance of winning.

All the cases mentioned in this article involve the high school student. However, the court rulings are applicable to any public or private college student.

—R.F. Nolan

Procedural Standards In Disciplinary Proceedings

Academic institutions have the right and the responsibility to protect their educational purpose. This is insured through the college's right to enforce students' standards of conduct and academic achievement.

Discipline should be of such a nature and severity that is warranted by the violation, but still be procedurally fair to the student.

First and foremost, the gravity of the punishment should reflect the gravity of the offense.

It is essential to proper sanctioning that the procedural rules and guidelines be clearly formulated prior to any situation involving their use. This conforms with an individual's right to protection against an ex post facto ruling. The role of faculty or student disciplinary boards should be firmly defined.

In any situation requiring disciplinary procedures, the student should "be informed of the nature of the charges against him, that he be given a fair opportunity to refute them, that the institution not be arbitrary in its actions, and that there be a provision for appeal of a decision."

Several safeguards which will guarantee a fair decision for the student follow:

First, the institution must clarify its general behavioral expectations. These expectations should concern only the behavior which is essential to the academic life of an institution or the safety and well-being of the on-campus community. Students should not be expected to regulate their behavior in any area that is of no direct relevance to the educational life of the institution.

Second, the investigation of student conduct should be highly controlled.

Any search of a student's premises or personal belongings must be congruent with an in-



Student is entitled to impartial hearing officer for any serious offense.

dividual's constitutional right to privacy.

Upon arrest, a student must always be informed of his rights with regards to both civil and institutional authorities. No harassment or coercion should ensue; an arrest should be simply an arrest.

An impartial hearing committee must be available to the student. This committee should respond to the student's request for a hearing when the penalty is serious, or the student questions the penalty for any reason.

The following is the hearing committee procedure:

1. The committee must include both faculty members and students. No other person with any interest in the case should be on the board.

2. The student must be given a written statement clearly outlining the reasons for the disciplinary action. Enough time should be allowed for the student to prepare for a hearing if neces-

sary.

3. The student must have the right to be assisted during the hearing by anyone he chooses.

4. The officials bringing the charge must be able to prove without a reasonable doubt that the student is guilty. If it cannot be proven, no disciplinary procedures can be taken.

5. The student must be permitted to hear and question any person who has influenced the case in a negative way. No statement can be used against the student unless the student has been informed of the content of the statement and names of those offering the information.

6. All evidence must be introduced at the proceeding. Improper evidence cannot be used against the student.

7. The hearing must be recorded verbatim (e.g., using a tape recorder).

8. The decision of the Hearing Committee can be appealed to the President or governing board of the institution.

NOW WHAT DO I DO?

1. This manual can be invaluable to each student at St. Michael's College. The best thing to do is sit down and read it over until you have a fair idea of what your rights are. This manual does not define every student right but it should give you a fairly good idea of what you should know. Before you can exercise your rights you have to be familiar with them.

2. Keep this manual in a safe and accessible spot for easy reference. This manual is full of

information which may not apply to you now, but may be essential in a future predicament.

3. Talk about your rights with people you know. Apply them to situations which exist now. Compare the St. Michael's Student Guide to the rights which have been enumerated in this manual. If the Guide is violating current court decisions, work to have it changed immediately. Although we are students, we are still guaranteed specific civil rights.

—THE MICHAELMAN

DEMAND to see all material that is to be presented to the hearing panel.

DEMAND a decision based only on the evidence which you have seen or heard.

DEMAND a written statement of the reasons for the decision of the school board or the hearing panel.

DEMAND an appeal to the school board if the decision is made by someone else.

IF YOU HAVE PROBLEMS gaining these rights, call the ACLU at 223-6304.

The ACLU has limited funds and legal resource people available to defend persons involved in a civil liberties question. Your rights are a civil liberties issue.

The Possession and Distribution of this Handbook is Protected by the First Amendment of the United States Constitution.

RIGHTS ON!

Publications of the American Civil Liberties Union of Mississippi have been the primary sources used in publishing **The Michaelman's Student Rights Manual.**

Facts, cases, and information have been mainly obtained through these materials.

The following have been most instrumental in the publication of this Student Rights Manual:

Legal Aid Society, Inc.
150 Cherry Street
Burlington, Vt.

The American Civil Liberties Union of Mississippi
128½ N. Gallatin St.
Jackson, MS. 39201

The Rights of Students
—An American Civil Liberties Handbook
by Alan H. Levine with Eve Carey
and Diane Divokey
Published by Avon Books, New York, 1973

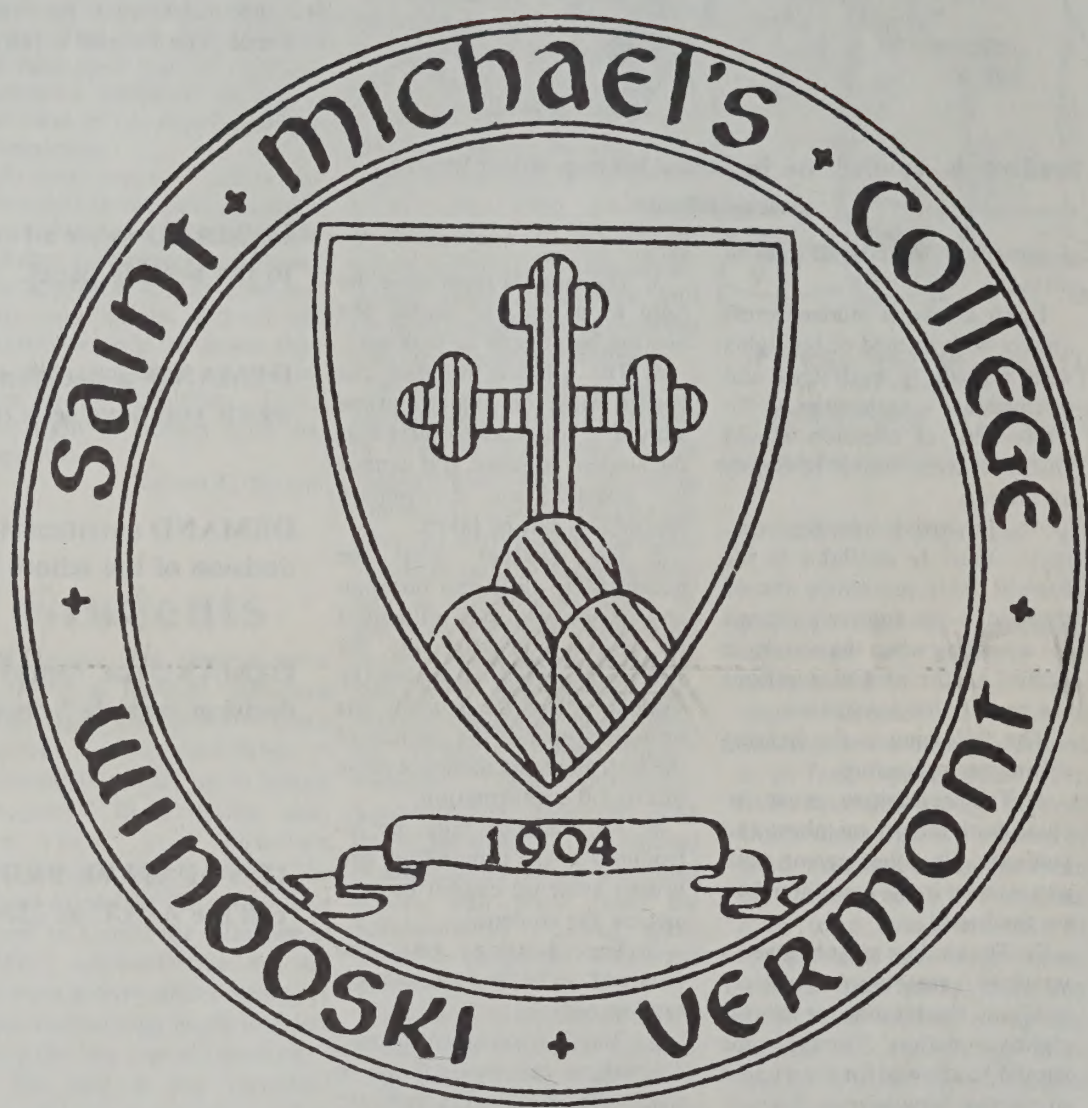
North Mississippi Chapter
C.A. Sullivan
P.O. Box 202
University, MS. 38677

The American Civil Liberties Union of Vermont
Montpelier, Vermont 05602

Atty. Thomas Lessor, Esq.
Northampton, MA.

These are your RIGHTS

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STUDENTS RIGHTS MANUAL

for future reference